

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CAROLYN NICOLET,

Plaintiff,

v.

JO ANNE B. BARNHART, Commissioner,
Social Security Administration,

Defendant.

Case No. C05-5792RBL

REPORT AND
RECOMMENDATION TO DENY
APPLICATION TO PROCEED
IN FORMA PAUPERIS

Noted for February 10, 2006

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on plaintiff's filing of an application to proceed *in forma pauperis* and a complaint to review and set aside a decision of the Social Security Administration under 42 U.S.C. § 405(g). Because plaintiff's application indicates she has sufficient income with which to pay the \$250.00 filing fee, the undersigned recommends that the court deny the application.

DISCUSSION

The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

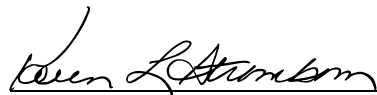
1 By requesting the court to proceed *in forma pauperis*, plaintiff is asking the government to incur
2 the filing fee because she allegedly is unable to afford the costs necessary to proceed with her cause of
3 action. In her application, however, plaintiff states that she receives an “indefinite” pension in the amount
4 of \$1,121.00 per month. (Dkt. #1). While the undersigned recognizes that \$1,121.00 per month does not
5 constitute a substantial income, given that there are no other persons who are dependant upon plaintiff for
6 support, it does not seem unreasonable to expect her to pay the required filing fee.

7 CONCLUSION

8 Because it is reasonable for plaintiff to incur the costs to proceed with this cause of action, the
9 undersigned recommends that the court deny her application to proceed *in forma pauperis*. Accordingly,
10 the undersigned also recommends that the court order plaintiff to pay the required filing fee **within thirty**
11 **(30) days** of the court's order.

12 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedures, the
13 parties shall have ten (10) days from service of this Report and Recommendation to file written objections
14 thereto. See also Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those objections for
15 purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule
16 72(b), the clerk is directed set this matter for consideration on **February 10, 2006**, as noted in the caption.

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18 Dated this 17th day of January, 2006.

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21 Karen L. Strombom
22 United States Magistrate Judge
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